

GOVERNMENT **SIKKIM** **GAZETTE**



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**GOVERNMENT OF SIKKIM
FINANCE REVENUE & EXPENDITURE DEPARTMENT
New Secretariat, Manan Kendra, Gangtok**

NOTIFICATION

NO.10/FIN/ADM

Dated: 20th August 2014

Whereas section 2 (c) of the Prize Chits and Money Circulation Schemes (Banning) Act 1978 (Act No. 43 of 1978) defines 'money circulation scheme' as any scheme by whatever name called, for the making of quick or easy money, or for the receipt of any money or valuable thing as the consideration for a promise to pay money, on any event or contingency relative or applicable to the enrolment of members into the scheme, whether or not such money or thing is derived from the entrance money of the members of such scheme or periodical subscriptions; and whereas section 3 of the said Act inter alia bans such money circulation schemes; and whereas instances have come to light where money circulation schemes are being introduced in disguised forms under the garb of selling goods or services wherein promoters and upline subscribers make quick and easy money at the cost of downline subscribers.

Now, therefore, in exercise of powers conferred by sub-section (1) of section 13 of the Act, the State Government hereby makes the following Rules in consultation with Reserve Bank of India for the purpose of carrying out the provisions of the Act:

1. Short title and commencement:

- (i) These rules may be called the **Money Circulation Schemes (Banning) Rules, 2014**.
- (ii) The rules shall come into force on the date of their publication in the official gazette.

2. Definitions: In these rules unless the context otherwise requires-

- (a) 'Act' means the prize Chits and Money Circulation Schemes (Banning) Act, 1978 (Act No. 43 of 1978).
- (b) 'Section' means a section of the Act;

- (c) '**Subscriber**' means a subscriber by whatever name called to a money Circulation Scheme including disguised Money Circulation Scheme.
- (d) '**Compensation Plan**' means plans whether explicitly stated or not, but put in practice by the business entities for distribution of benefits to the subscribers;
- (e) '**Enrolment**' means a subscriber enrolling one or more subscribers;
- (f) '**Money Circulation Scheme**' includes a scheme which is used for making of quick or easy money by disguising such scheme as a scheme for sale of products or providing or claiming to provide certain goods or services etc;
- (g) '**Competent Authority**' means authority notified by the State Government for winding up of the business entities indulging in money circulation schemes and perform other tasks as assigned by the State Government in order to implement the Act.
- (h) '**Nodal Police Authority**' means police authority in the state notified by the State Government and entrusted with the responsibility of collecting, collating and sharing information with other States, Central Government, Reserve Bank of India and others regarding money circulation schemes;
- (i) '**Pyramid**' means a multi layered network of subscribers to a scheme formed by subscribers enrolling one or more subscribers in order to receive any benefit, directly or indirectly, as a result of enrolment, action or performance of additional subscribers to the scheme. The subscribers enrolling further subscriber(s) occupy higher position and the enrolled subscriber(s) lower position, thus, with successive enrolment, they form multi-layered network of subscribers.
- (j) '**Upline Subscriber**' means subscriber who is at a higher level in the pyramid;
- (k) '**Downline Subscriber**' means a subscriber who is at a lower level in the pyramid.
- (l) '**Promoter**' means a person or persons who conduct disguised money circulation schemes and includes heirs, assignees etc. of the persons who promote business entities running disguised money circulation schemes. It is also includes persons who actually control the operations of such schemes even though they may not be on record acting as promoters of the business entities.
- (m) Words and expressions used in these rules but not defined herein shall have the meaning respectively assigned to them in the Act.

3. No individual or Company or firm or business association, in any form, shall promote, run or participate in the money circulation scheme including a disguised money circulation scheme as defined in Rule 2(f).

4. No individual or Company or firm or business association, in any form, shall run a scheme with a compensation plan in which the subscribers have to enroll one or more subscribers to become entitled to certain benefits, directly or indirectly, as a result of enrolment, action or performance of additional subscribers.

5. No individual or Company or firm or business association, in any form, shall run a scheme that induces enrolment of new members by offering benefits or commission, by whatever name called, to upline members in the pyramid out of the action or performance like sale or purported sale of goods or services by the downline members.
6. No individual or Company or firm or business association, in any form, shall run a scheme with a compensation plan which envisages receipt of deposits or entry fee or periodical subscription and gives incentive to subscribers out of these funds for enrolment of new subscribers.
7. The Nodal Police Authority in a state shall be responsible for coordinating with the State Governments, the Central Government and the agencies concerned under such Government and the Reserve Bank of India and shall also be responsible for furnishing the information to the Reserve Bank of India in the format and periodicity as decided by the State Government in consultation with the Reserve Bank of India.

Explanation- This does not debar the investigating agencies from interacting with other State Governments and other agencies for the purpose of investigation.

8. The Competent Authority shall be responsible for taking all necessary action in connection with the winding up of companies/firms/ business associations in any form indulging in Money Circulation Schemes including disguised Money Circulation Schemes.
9. The Promoters of Money Circulation Schemes shall be personally liable even if such schemes are run by companies registered under the Companies Act, 1956 or other business entities carrying limited liability.
10. On report received from the investigating officer and on being satisfied that *prima facie* evidence exists that a money circulation scheme including disguised money circulation scheme is being operated, an officer not below the rank of Superintendent of Police or other officers as notified by the State Government in this regard, may order sealing of the business premises and offices connected with such schemes, suspend operations of the bank accounts connected with such schemes and take such other action as is required for closure of business operations pertaining to such schemes.
11. On conclusion of the investigation, if adequate evidence exists that a money circulation scheme is being run by a company or firm or business association in any form, the investigating officer, apart from prosecuting the case under the Prize Chit and Money Circulation Schemes (Banning) Act, 1978, shall forward a report giving details of the evidence collected during the investigation

through the Superintendent of Police concerned to the Competent Authority in the state as defined under Section 2 (g). The Competent Authority shall take action for winding up such business in cases where the power to initiate winding up such business in cases where the power to initiate winding up the business entity is vested in the State Government. In the case of companies and other business entities where such a power is vested in the Central Government, the Competent Authority shall forward a report with its recommendations to the concerned Ministry in the Central Government for initiating action for winding up of the company.

BY ORDER

**M. G. KIRAN, IAS
PRINCIPAL SECRETARY**
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